

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
PETER J. SOBOTTA, R.N.,	:	LS07100416NUR
RESPONDENT.	:	

[Division of Enforcement Case # 06 NUR 195]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Peter J. Sobotta, R.N.
6929 W. Donges Bay Road
Mequon, WI 53092

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Board of Nursing
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter subject to the approval of the Board of Nursing. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Peter J. Sobotta, R.N., Respondent, date of birth November 30, 1965, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 150887, which was first granted June 2, 2005.

2. Respondent's last address reported to the Department of Regulation and Licensing is 6929 W. Donges Bay Road, Mequon, WI 53092.

3. Respondent was employed as a registered nurse by Columbia St. Mary's (CSM) and worked as a Clinical Nurse II in the Behavioral Health Unit at Columbia Hospital in Milwaukee, Wisconsin. Respondent had resigned his staff position for a job at another facility effective March 16, 2006, but remained on "pool status" and picked up extra shifts.

4. In mid-2005, while Respondent was a full-time employee at CSM, a patient accused Respondent of kissing her in her room on the unit. The allegation was not substantiated. But CSM required Respondent to undergo 3½ months of clinical supervision by staff psychiatrists to assist him to understand the nature of, and boundaries required for, psychiatric nurse-patient relationships.

5. On March 30, 2006, another staff member saw Respondent alone with a young female patient in her room. Respondent was sitting in a chair watching the patient, who was in the bathroom dressed only in her panties and a tank top, shaving her legs and underarms. That staff member reported the incident to supervisors and on April 4, 2006, the Nurse

Director and Charge RN met with Respondent to discuss it. Respondent was told that his interaction with the patient was high risk which could be exploitive to the patient and could lead to accusations of inappropriate behavior. Respondent agreed not to be alone with a female patient in the patient's room.

6. On April 7, 2006, Ms. A, who was 38 years old, was admitted to the Columbia Hospital Behavioral Health Unit after ingesting an excessive quantity of benzodiazepines. Ms. A was diagnosed with major depressive disorder, recurrent and severe. On April 8 & 9, 2006, Respondent worked the 7:00 a.m. to 3:30 p.m. shifts on the Unit and was assigned as Ms. A's primary nurse.

a. During this time period, Respondent was in Ms. A's room alone with her several times.

b. After breakfast on April 9, Respondent went into Ms. A's room and asked if she wanted to talk and they went into a room across from the nurses' station. Ms. A told Respondent that she wanted to go home immediately. Ms. A said that if she were discharged, she would not hurt herself and would attend outpatient treatment the following day.

c. A short time later, Respondent came to Ms. A's room, stood by the window and looked at her. Ms. A asked Respondent what was wrong and Respondent said "you scare me because I have strong feelings for you." He said "I see something behind your eyes" and "I feel so attracted to you."

d. Respondent returned to Ms. A's room to inform her that her doctor had authorized her discharge. He asked Ms. A for a hug which she gave him. He made the comment "I just want to kiss you," but walked away.

e. While Respondent was gone, Ms. A went into the bathroom to get ready to leave and put on some lipstick. As she walked out of the bathroom, Respondent returned with her discharge papers. When he came into the room, he partially closed the door, handed the paperwork to Ms. A and kissed her on the lips. He then went into the bathroom to wipe off the lipstick. As he left the room, he stated that he had to stop coming down to her room because someone was going to get suspicious and he could lose his license.

7. On April 9 at 2:00 p.m., Ms. A was discharged with instructions to begin attending the Intensive Outpatient Program (IOP) at 8:00 a.m. the following day. The morning of April 10, 2006, Ms. A called IOP and said that one of her children was ill and she would not be able to start IOP until April 11. The therapist she spoke with noted the call in the record at 8:45 a.m. and wrote that Ms. A was receptive to attending IOP and that Ms. A stated that she needed to continue in treatment.

8. Respondent's job duties did not include making calls to patients following their discharge from the Unit. On April 10, while he was at home, Respondent obtained Ms. A's home number from the telephone book. He called Ms. A's home and told her mother that he was a nurse at CSM and needed to speak with Ms. A. Ms. A's mother gave Respondent Ms. A's cell phone number. Respondent then called Ms. A and asked her why she had not attended IOP that day. He also told her the call was of a personal nature and not a professional one. Ms. A mentioned that she was at lunch with someone at the time of the call. Respondent did not note the call in Ms. A's record or anywhere else.

9. On April 11, Ms. A began attending IOP in the morning and afternoon. That day, Respondent called Ms. A's cell phone and left the message "how was lunch" and hung up. On April 12, Respondent called Ms. A's cell phone and left the message "how are you feeling?" The calls from Respondent initially confused Ms. A and then made her anxious and afraid.

10. On April 14, Ms. A reported to her IOP therapists that she had a disturbing experience with Respondent while hospitalized. She also disclosed her anxiety about the calls from Respondent following inpatient discharge and her concerns for her safety. At their request, Ms. A also discussed her concerns with the Nurse Director and the Charge RN on April 17. An IOP progress note of April 17 says "Pt feels retraumatized over issue of male nurse crossing boundaries."

11. At 4:30 p.m. on April 17, hospital administrators met with Respondent to discuss Ms. A's allegations. Respondent was suspended from his "pool status" at CSM until the investigation could be completed. Respondent turned in his resignation which was accepted.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct set out above, has violated the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public, which is unprofessional conduct as defined by Wis. Adm. Code § N 7.04(intro.) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Peter J. Sobotta, R.N., is hereby REPRIMANDED for his conduct.

2. Respondent's license is LIMITED as follows:

a. Within 120 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of a total of 6 hours of continuing education in the area of boundaries and ethics, which course(s) shall first be approved by the Board, or its designee.

b. Upon Respondent providing proof sufficient to the Board's designee that he has completed the education, the Board's designee shall issue an Order removing this limitation of Respondent's license.

c. Respondent shall immediately provide a copy of this Final Decision and Order to supervisory personnel at all settings where Respondent is working as a nurse providing patient care. Prior to commencing work as a nurse providing patient care at any other setting during the two years following the date of this Order, Respondent shall provide a copy of this Final Decision and Order to supervisory personnel.

3. Respondent shall pay to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.22(2) the costs of this proceeding as follows: \$450 within 120 days of the date of this order and \$500 within one year of the date of this order.

4. Requests for approval, notification of completion of educational programs and payment shall be faxed, mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

By: Marilyn Kaufmann
A Member of the Board

10/4/07
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
PETER J. SOBOTTA, R.N.,	:	LS _____ NUR
RESPONDENT.	:	

[Division of Enforcement Case # 06 NUR 195]

It is hereby stipulated and agreed, by and between Peter J. Sobotta, R.N., Respondent; Aaron Konkol of Cross Law Firm, S.C., attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent’s licensure by the Division of Enforcement (file 06 NUR 195). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation, he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses or his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.
4. Respondent denies engaging in some of the conduct and making some of the statements contained in Findings of Fact 6, 8 and 9, but acknowledges there is evidence from which the Board could find that they occurred. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board’s Final Decision and Order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Peter J. Sobotta, R.N.
Respondent
6929 W. Donges Bay Road
Mequon, WI 53092

Date

Aaron Konkol
Cross Law Firm, S.C.
Attorneys for Respondent
845 N. 11th Street
Milwaukee, WI 53233

Date

John R. Zwieg
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date